TNG GEOK CHUAN v. REGINA.

[A. Cr. J. (Murray-Aynsley C.J.) August 31, 1954]

[Singapore — Magistrate's Appeals Nos. 249 of 1953 & 68 of 1954]

Road Traffic Ordinance, 1941, ss. 21(3), 80(1) & 81 — Applying for a driving licence whilst disqualified — Making false declaration to obtain a driving licence — Accused illiterate in English — Importance of explaining declaration in application form — Form filled up by petition-writer.

In this case two charges were made arising on the same facts. The facts were that the accused whilst under disqualification applied for a driving licence by presenting his application in the prescribed form. The form was in English and contained 15 questions with blank spaces for the answers to be filled in. Question 11 was "Have you ever been, or are you, disqualified by any Court for holding or obtaining a driving licence or certificate of competency?....If so give particulars", and the answer given was "None." The application was approved and a Provisional Driving Licence was issued. He subsequently went for his driving test and passed, and was issued with a driving licence. He was firstly charged with making a false statement to obtain a driving licence and secondly with making an application for a driving licence whilst disqualified. They were tried separately at an interval of some months.

The defence on the first charge was that the form was filled by an unknown person to whom the accused paid 50 cents. The accused alleged that the writer did not ask him any questions. On the second charge the accused in his defence stated that when his licence was "suspended" it was not explained to him that he could not apply for a driving licence. The accused was sentenced to two months' rigorous imprisonment on the first charge, and on the second charge he was sentenced to three months' rigorous imprisonment.

Held: (1) in cases of making a false declaration, where the accused does not know English, it is important that the declaration should have been explained to him; (2) where it transpired that the material part of the declaration had not been explained to the person concerned, the conviction on making a false declaration could not be sustained.

MAGISTRATE'S APPEAL.

A. J. Braga for the appellant.

A. V. Winslow (Crown Counsel) for the respondent.

Murray-Aynsley C.J. : — In this case two charges were made arising on the same facts. They were tried separately at an interval of some months. The first charge was making a false statement to obtain a driving licence. The second was for making an application for a driving licence whilst disqualified. In cases of making a false declaration, where the accused does not know English, it is important that the declaration should have been explained to him. When the second charge was heard it transpired that the material part of the declaration had not been explained to the appellant. The form had been filled up by a petition-writer outside the office of the Registrar of Vehicles. The same witness had said on the hearing of the first charge that he had explained to the appellant the whole form. In the circumstances I considered that the conviction on the first charge could not be sustained. On the second charge there is no doubt that an offence was committed. I considered, however, that in the circumstances the penalty might be reduced.

Order accordingly.

Solicitors: *Braga & de Souza.*

O. K. NAIR v. REGINA.

[A. Cr. J. (Murray-Aynsley C.J.) May 19, 1954]

[Singapore — Magistrate's Appeal No. 25 of 1954]

Evidence — Evidence of character of accused.

In this case at the trial the appellant was cross-examined by counsel for a co-accused as to his character.

Held: the question was inadmissible and as it was wrongly admitted the conviction must be quashed.

MAGISTRATE'S APPEAL.

L. Rayner for the appellant.

A. V. Winslow (Crown Counsel) for the respondent.

Cur. Adv. Vult

Murray-Aynsley C.J. : — In this case the appellant and others with whom he was charged jointly for theft gave evidence on their own behalf. The appellant was cross-examined by counsel for a co-accused which would normally have been inadmissible as they concerned the character of the accused and were not otherwise relevant.

There is nothing here to correspond to (f) (iii) of section 1 of the Criminal Evidence Act, 1898. I consider therefore that the question was inadmissible.

Conviction quashed.

Solicitors for the appellant: *L. Rayner & Co.*